

Message Text

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ACTION EUR-12

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SUBJ: NICS TARE PROCUREMENT CONFERENCE 16-17 DEC 74

1. NICSMA HELD CONFERENCE WITH BIDDERS ON TARE PROCUREMENT ON 16-17 DEC 1974 AT WHICH TIME NICSMA DISTRIBUTED ANSWERS TO QUESTIONS PREVIOUSLY SUBMITTED IN WRITTEN FORM. IN ADDITION, NICSMA ANSWERED ON 17 DEC QUESTIONS CONTRACTORS POSED AT 16 DEC SESSION. THESE QUESTIONS FROM 16 DEC WERE MOSTLY TECHNICAL AND ANSWERS WERE GENERALLY SATISFACTORY. SESSION ON 17 DEC FOCUSED PRINCIPALLY ON CONTRACT'S GENERAL CLAUSES AND CONDITIONS. THESE LATTER QUESTIONS CONSTITUTED THE BULK OF THE TOTAL QUESTIONS AND NICSMA INFORMALLY ANSWERED THEM IN A NEGATIVE VEIN. NICSMA WILL FORWARD OFFICIAL ANSWERS TO THE CONTRACTORS AT A LATER DATE.

2. US CONTRACTORS HAVE APPEALED TO MISSION FOR RELIEF FROM MANY OF THE GENERAL CLAUSES AND CONDITIONS. THESE PERTAIN TO CONTRACTOR RESPONSIBILITY, WARRANTY, AND PAYMENT TERMS. IN MANY CASES THE CONDITIONS ARE SEVERE AND PLACE THE ENTIRE BURDEN OF ALL MISUNDERSTANDINGS ON THE CONTRACTOR. IN ADDITION, THE CONTRACT DOES NOT PROVIDE FOR MILESTONE PAYMENTS AND THUS THE CONTRACTOR MUST BE SELF-FINANCING. GERMAN, UK, AND ITALIAN CONTRACTORS ALSO CONTACTED THEIR DELEGATIONS WITH SIMILAR PROBLEMS.
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THUS, DISSATISFACTION AMONG CONTRACTORS IS QUASI-UNANIMOUS (NETHERLANDS DELEGATION HAS NOT HEARD FROM PHILIPS).

3. AFTER CONSULTATION WITH OTHER DELEGATIONS, MISSION

SUBMITTED PAPER TO PAYMENTS AND PROGRESS COMMITTEE ON 18 DEC OUTLINING THE ABOVE PROBLEMS AND APPEALING TO NICSMA FOR A RE-EVALUATION OF THEIR ANSWERS TO CONTRACTORS ON THE GENERAL CLAUSES AND CONDITIONS. IN VIEW OF GENERAL SUPPORT BY ALLIES, NICSMA AGREED TO TAKE US COMMENTS INTO CONSIDERATION IN FORMULATING FINAL OFFICIAL ANSWERS TO CONTRACTORS' QUESTIONS IN AN EFFORT TO REDUCE THE RISK FACTOR WHICH THE CONTRACTORS MUST INCLUDE IN THEIR BID PRICE. NICSMA IS CONSIDERING POSSIBILITY OF INFORMING ALL INTERESTED BIDDERS THAT THEY WILL FURNISH OFFICIAL ANSWERS TO CONTRACTORS' QUESTIONS AS SOON AS POSSIBLE, AND THAT NICSMA IS RECONSIDERING SOME OF THE ORAL ANSWERS THEY GAVE DURING THE CONFERENCE. COMMITTEE HOPES THAT SUCH ACTION WILL PREVENT IRREVOCABLE DECISIONS BY COMPETENT CONTRACTORS NOT TO BID THE TARE JOB ON BASIS OF UNACCEPTABLE RISK. NICSMA WILL REPORT ON ACTION TAKEN TO P&P COMMITTEE ON 9 JANUARY.

4. RECOMMEND THAT COMMERCE INFORM US CONTRACTORS OF THIS DEVELOPMENT WITH RECOMMENDATION THAT POTENTIAL NO-BID DECISIONS BE DELAYED UNTIL FINAL REPLY BY NICSMA. MISSION IS READY TO REQUEST OBLIGATORY TWO-WEEK EXTENSION TO 19 FEB 75 BID DEADLINE OR ADDITIONAL TIME IF REQUIRED. BRUCE

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